

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

HARRISON KERN,

Plaintiff,

v.

Case No. 05-C-0446

CITY OF MILWAUKEE  
POLICE DEPARTMENT,  
OFFICER JOHN DOE,  
OFFICER JANE DOE,

Defendants.

---

ORDER GRANTING STIPULATION TO SUSPEND SCHEDULING ORDER AND  
REQUEST FOR MEDIATION (DOC. # 37); AND GRANTING DEFENDANTS' MOTION  
TO DISMISS CERTAIN DEFENDANTS (DOC. #34)

---

On February 12, 2008, the parties filed a Stipulation to Suspend Scheduling Order and Request for Mediation. For good cause shown, the court will grant this joint motion.

Also pending before the court is defendants' City of Milwaukee, City of Milwaukee Police Department, and Officers John and Jane Doe, Motion to Dismiss defendants added by Plaintiff's Second Amended Complaint, filed on March 3, 2006. In that motion, the defendants allege that newly added parties Woody Welch, Eric Mandel Johnson, Leonard J. Sobczak, Ernesto A. Baca, Joseph J. Czarnecki, David Heard, Arthur L. Jones, and James Cleveland, were not served properly. The only record of service on these parties is the "Certificate of Service" docketed by plaintiff's counsel, which states:

I hereby certify that on this date I electronically filed documents with the Clerk of the Court using the ECF system which will send notification of such filing to Attorney MaryNell Regan, counsel for the Defendants, as follows:

1. Second Amended Complaint.
2. Certificate of Service regarding same.

(See Doc. # 12.) From the record, it appears that the plaintiff has not complied with Fed. R. Civil. P. 4(j) and 4(m). Plaintiff refused to respond to the defendant's motion to dismiss and now stipulates to mediation with the original defendants.

In addition, the defendants move to dismiss as parties Officers John and Jane Doe. They argue that plaintiff has had enough time to amend the pleading to name these defendants. Inasmuch as the plaintiff has failed to show any cause, let alone good cause, for failure to amend the pleadings to identify the Doe defendants prior to the court's deadline for amending pleadings, the defendants' motion will be granted.

Therefore,

IT IS ORDERED that the February 22, 2008, deadline to file dispositive motions is suspended and that the parties shall resume mediation with Magistrate Judge Callahan. The parties shall mediate in good faith, but in the event they are unsuccessful, any dispositive motions must be filed within 30 days following the conclusion of mediation.

IT IS FURTHER ORDERED that Woody Welch, Eric Mandel Johnson, Leonard J. Sobczak, Ernesto A. Baca, Joseph J. Czarnecki, David Heard, Arthur L. Jones, and James Cleveland are dismissed as parties to this case pursuant to Rule 4(m).

IT IS FURTHER ORDERED that Officers John and Jane Doe are dismissed as parties to this case.

Dated at Milwaukee, Wisconsin, this 25th day of February, 2008.

BY THE COURT

s/ C. N. CLEVERT, JR.  
\_\_\_\_\_  
C. N. CLEVERT, JR.  
U. S. DISTRICT JUDGE